

ASSEMBLY BILL

No. 1438

Introduced by Assembly Member Salinas

February 22, 2005

An act to amend Section 54953 of the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1438, as introduced, Salinas. Local agencies: open meetings.

(1) The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. The act authorizes a legislative body to use teleconferencing, subject to specified requirements, including that each teleconference location be accessible to the public and that at least a quorum of the members of the body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

Existing law provides that in counties selected by the Director of Health Services with the concurrence of the county, a special county health authority may be established in order to meet the problems of delivery of publicly assisted medical care in each county, and to demonstrate ways of promoting quality care and cost efficiency.

This bill would provide that, notwithstanding the provisions of the act on teleconferencing, with respect to a teleconference meeting of a county health authority established in a county under specified provisions, members of a health authority who are outside the jurisdiction may be counted toward the establishment of a quorum when participating in the teleconference if at least 50% of the number of members that would establish a quorum are present within the jurisdiction and the health authority provides a toll-free teleconference

number that allows any person to call in to participate in the meeting and that toll-free number is identified in the notice and agenda of the meeting.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54953 of the Government Code is
2 amended to read:

3 54953. (a) All meetings of the legislative body of a local
4 agency shall be open and public, and all persons shall be
5 permitted to attend any meeting of the legislative body of a local
6 agency, except as otherwise provided in this chapter.

7 (b) (1) Notwithstanding any other provision of law, the
8 legislative body of a local agency may use teleconferencing for
9 the benefit of the public and the legislative body of a local
10 agency in connection with any meeting or proceeding authorized
11 by law. The teleconferenced meeting or proceeding shall comply
12 with all requirements of this chapter and all otherwise applicable
13 provisions of law relating to a specific type of meeting or
14 proceeding.

15 (2) Teleconferencing, as authorized by this section, may be
16 used for all purposes in connection with any meeting within the
17 subject matter jurisdiction of the legislative body. All votes taken
18 during a teleconferenced meeting shall be by rollcall.

19 (3) If the legislative body of a local agency elects to use
20 teleconferencing, it shall post agendas at all teleconference
21 locations and conduct teleconference meetings in a manner that
22 protects the statutory and constitutional rights of the parties or
23 the public appearing before the legislative body of a local
24 agency. Each teleconference location shall be identified in the
25 notice and agenda of the meeting or proceeding, and each
26 teleconference location shall be accessible to the public. During

1 the teleconference, at least a quorum of the members of the
2 legislative body shall participate from locations within the
3 boundaries of the territory over which the local agency exercises
4 jurisdiction. The agenda shall provide an opportunity for
5 members of the public to address the legislative body directly
6 pursuant to Section 54954.3 at each teleconference location.

7 (4) For the purposes of this section, “teleconference” means a
8 meeting of a legislative body, the members of which are in
9 different locations, connected by electronic means, through either
10 audio or video, or both. Nothing in this section shall prohibit a
11 local agency from providing the public with additional
12 teleconference locations.

13 (c) No legislative body shall take action by secret ballot,
14 whether preliminary or final.

15 *(d) (1) Notwithstanding paragraph (3) of subdivision (b),*
16 *when a health authority conducts a teleconference meeting,*
17 *members who are outside the jurisdiction of the authority may be*
18 *counted toward the establishment of a quorum when*
19 *participating in the teleconference if at least 50 percent of the*
20 *number of members that would establish a quorum are present*
21 *within the boundaries of the territory over which the authority*
22 *exercises jurisdiction, and the health authority provides a*
23 *toll-free teleconference number that allows any person to call in*
24 *to participate in the meeting and that toll-free number is*
25 *identified in the notice and agenda of the meeting.*

26 *(2) For purposes of this subdivision, a health authority means*
27 *any entity created pursuant to Sections 14018.7, 14087.31,*
28 *14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare*
29 *and Institutions Code, and any joint powers authority created*
30 *pursuant to Article 1 (commencing with Section 6500) of Chapter*
31 *5 of Division 7 for the purpose of contracting pursuant to Section*
32 *14087.3 of the Welfare and Institutions Code.*

33 SEC. 2. The Legislature finds and declares that Section 1 of
34 this act, which amends Section 54953 of the Government Code,
35 imposes a limitation on the public’s right of access to the
36 meetings of public bodies or the writings of public officials and
37 agencies within the meaning of Section 3 of Article I of the
38 California Constitution. Pursuant to that constitutional provision,
39 the Legislature makes the following findings to demonstrate the

1 interest protected by this limitation and the need for protecting
2 that interest:

3 Local health initiatives are an essential component of
4 California's health care delivery system, and their ability to meet
5 regularly to address the health care concerns of Medi-Cal
6 beneficiaries is vital. The membership of local health initiative
7 boards of directors is required by statute to represent a diverse
8 group of health care professionals, and, as a result, these boards
9 frequently are large and comprised of persons working and
10 residing outside of the board's jurisdiction. Accordingly, these
11 boards have a demonstrated difficulty in obtaining a quorum of
12 members located within the board's jurisdiction as required by
13 the teleconference provisions of the Ralph M. Brown Act.

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